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NOTE AND COMMENT.

THE DEATH OF DEAN THAYER.—The death on September 15th of Ezra Ripley Thayer, dean of the Harvard Law School, has brought irreparable loss not only to the institution which he had brilliantly served, but to the cause of legal education throughout the country. Dean Thayer was the rarely fine product of conditions and environment which have been perhaps the most richly fruitful that our nation has known. The son of a most distinguished legal scholar and teacher, he grew up in association with much that was best and most inspiring in Massachusetts and in the great university from which he was graduated in 1888 with the degree of A.B. and in 1891 with the degrees of A.M. and LL.B. His record as a student in the Harvard Law School has seldom been equalled. For a year, 1891-2, he was secretary to Mr. Justice Gray of the United States Supreme Court, after which service he returned to Boston and began a career in the active practice of law, in which he soon won recognition as a leader in his generation.

But it was the field of legal education and scholarship in which Mr. Thayer was destined to make a place for himself of greater significance, and of far wider influence, and for which his peculiar genius was most eminently fitted. In 1910 he became Dane professor of law and dean of the

Harvard Law School, in the latter capacity succeeding the late James Barr Ames, with whom he possessed many high ideals of scholarship and many admirable characteristics in common. In complete devotion to the school of which he was now an officer and to the great cause it served, in patient, courteous, self-denying consideration of the problems and the needs of hundreds of students, in zeal for the highest possible standards of legal scholarship, in an almost stern holding of himself to the most exacting standards of duty as administrator, teacher and scholar, Dean Thayer soon proved himself a worthy successor of a most lovable and truly great man.

It is not merely that he possessed an intellect that was at once brilliant and subtle and of broad vision, not merely that he had developed rapidly into a skillful and inspiring teacher, or that his scholarship, already proved, seemed destined to be most productive, that causes Dean Thayer to be so deeply and so widely mourned. These qualities, a conscience that had the intensity without the narrowness of what we sometimes call the New England conscience, a constant idealism and a rare courtesy combined to make a personality winning and yet compelling and remarkable above all for a certain fineness which it is perhaps impossible to describe but which lingers inspiring in the memories of hosts of friends.

About two years ago Mr. Thayer had been nominated by Governor Foss to the Supreme Judicial Court of Massachusetts, a position which had peculiar attractions for him, devoted as he was to the traditions and the achievements of that splendid court. Perhaps the extreme conscientiousness of the man, his self-effacing devotion to duty, his modesty and his idealism cannot be better set forth than in the following extract from a letter to a friend who had written to him concerning his declination of this proffered appointment.

"The position was very attractive to me, not only because I have a great sentiment for our court, and it has always been my special ambition to serve on it, but also because I feel that I am a good deal better fitted both by training and natural capacity for work on the bench than for teaching. Nevertheless the question at no time seemed to me even doubtful, and my experience of four years ago when I was asked to come to the Law School, taught me what a really doubtful question about one's career means. I could not make it seem anything less than the desertion of a simple duty to drop the School at this time, particularly in the middle of the school year. This is not the sort of turn which a managing director should serve the Institution, however it might be with others; I knew how my father would have felt about it and I agreed with his opinion. My only doubt was whether the school really needed me. On this point I have been seriously shaken up during my moods of depression during the last few years, but when I put the question to some of my colleagues * * * they would not admit that the school would gain by my going."

THE COMMODITY CLAUSE OF THE HEPBURN ACT.—The Supreme Court of the United States has added another to the interesting line of cases construing the so-called "Commodity Clause" of the HEPBURN Act of 1906. In